



## MEMORANDUM

February 24, 2016

TO: CONTRACT SUPPORT COST CLIENTS  
FROM: HOBBS, STRAUS, DEAN & WALKER, LLP *Jeff Strommes (by TAE)*  
RE: ***Court Approves Final Settlement in Ramah CSC Class Action***

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Over 25 years after it began, the contract support cost (CSC) class action against the Department of the Interior is drawing to a close. Earlier today, the federal court in New Mexico, where the case now known as *Ramah Navajo Chapter v. Jewell* was initially filed in 1990, issued a judgment approving the Final Settlement Agreement (FSA) that resolves the remaining CSC claims against Interior for \$940 million. The court also approved class counsel's motion for attorneys' fees for 8.5% of the amount paid from the Judgment Fund. The court's order and the findings of fact and conclusions of law supporting it are attached.

The class includes all tribes and tribal organizations—close to 700 in all—that contracted with Interior under the Indian Self-Determination and Education Assistance Act (ISDEAA) during any of the years covered by the final settlement, 1994-2013. As we have reported, each class member's share of the common fund will be calculated based on a "Distribution Percentage" set forth in an appendix to the FSA. We attach the most recent version of the appendix, which was updated on December 16, 2015.

The court approved the FSA based on its finding that the settlement is "fair, reasonable, and adequate," as required by the federal rules,<sup>1</sup> and in the best interest of the class. The court noted that the Government supports the settlement, and that no class member objected to the terms of the FSA.<sup>2</sup>

The court also found the application for attorneys' fees at 8.5% of the common fund to be reasonable based on several factors, including the novelty and difficulty of the issues, the skill required to litigate and settle the case, and the outstanding results obtained for the class. The court praised the long and skillful advocacy of Class Counsel Michael P. Gross and Co-Counsel Bryant Rogers and Lloyd Miller in obtaining a "monumental settlement

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<sup>1</sup> See Fed. R. Civ. P. 23(e)(2).

<sup>2</sup> The lone objection, filed by the United South and Eastern Tribes (USET), objected to USET's exclusion from the class but not to any other feature of the FSA. USET's objection led the parties to re-examine the settlement distribution methodology and resulted in the addition of USET and 54 other new class members in December 2015. See our memorandum of December 18, 2015 for more details.

amount.” For many years, the court pointed out, cap-year CSC claims had been uniformly rejected by the courts. Only a 2-1 decision in the Tenth Circuit, followed by a 5-4 decision in the Supreme Court, made the settlement possible. Even then, it took over three years of arduous settlement negotiations for the parties to agree on the amount of damages. In light of all these factors, the court approved an award of attorneys’ fees of 8.5% of the settlement distribution, or up to \$79.9 million.<sup>3</sup> The court also approved reimbursement of out-of-pocket costs of \$1,205,989.92.

Under the terms of the FSA, the Settlement Administrator must calculate each class member’s allocation of the Net Settlement Amount (\$940 million less attorneys’ fees and costs, \$4 million for the Reserve Account, and certain other expenses). The Settlement Administrator will prepare a claim form for each member identifying the distribution amount and meeting the requirements of the Contract Disputes Act. Class counsel have indicated that payments could begin this summer.

### *Conclusion*

We will continue to follow CSC developments in both IHS and BIA on your behalf. If you have any questions about this memorandum, please do not hesitate to contact Joe Webster ([jwebster@hobbsstrauss.com](mailto:jwebster@hobbsstrauss.com) or 202-822-8282), Geoff Strommer ([gstrommer@hobbsstrauss.com](mailto:gstrommer@hobbsstrauss.com) or 503-242-1745), or Steve Osborne ([sosborne@hobbsstrauss.com](mailto:sosborne@hobbsstrauss.com) or 503-242-1745).

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<sup>3</sup> The final figure will likely be a bit less, since it is based not on the \$940 million settlement figure, but on the amount actually distributed from Treasury’s Judgment Fund to the Designated Account from which it will be allocated to class members. Each class member’s share of the settlement is subject to an offset for amounts owed to the Government and will be deducted by Treasury before being paid into the Designated Account. See Findings of Fact and Conclusions of Law at 35, n.24; FSA at 19-20.